



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Milton Water District
Board of Commissioners
7 Elm Street
Milton, NH 03851

Re: Milton Water District Water System
Milton, New Hampshire
EPA #1581010

ADMINISTRATIVE ORDER
No. WD 04-017

SEPTEMBER 13, 2004

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, to the Milton Water District pursuant to RSA 485:4 and RSA 485:58. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. The Milton Water District is a political subdivision having a mailing address through its representative, James Haney, of 7 Elm Street, Milton, NH 03851. James Haney, the Chairman of the Board of Commissioners of the Milton Water District, is the designated representative of the Milton Water District for purposes of water supply issues.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485 authorizes DES to regulate public water supplies. RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants that may have an adverse effect on health, establish maximum contaminant levels that are acceptable for human consumption, establish criteria and procedures to assure compliance with such maximum contaminant levels, and identify criteria and standards to ensure the proper operation and maintenance of water systems. Pursuant to this authority, DES has adopted NH Admin. Rule Env-Ws 300 *et seq.*
2. The Milton Water District ("District") is the owner of a public water system that serves approximately 340 service connections with an estimated population of 850 persons in the community of Milton, NH ("Water System"). The Water System is a community water system as defined in RSA 485:1-a, I and Env-Ws 302.02(i).
3. Env-Ws 306.01(b) requires that each community water system undergo a sanitary survey once every three years. The purpose of a sanitary survey is to conduct an on-site review in order

to evaluate the adequacy of the source(s), storage facilities, equipment, operation, and maintenance of a water system to produce and distribute safe drinking water.

4. Env-Ws 360.10 requires the owner of a public water system to fully maintain the operational readiness of the system.
5. On May 9, 2003, a sanitary survey was performed at the Water System by DES personnel. The May 28, 2003 sanitary survey report documented, *inter alia*, a sidewall leak in the 200,000 gallon welded steel storage tank, which is the Water System's sole storage tank. The sanitary survey report strongly urged the Water System to have an internal inspection of the tank performed to determine the extent of needed repairs. In addition, the sanitary survey report noted that the perimeter of the tank's concrete foundation was in need of repair.
6. On July 11, 2003, DES received a copy of a brief report from Welch's Water and Wastewater Services, Inc., concerning the results of an internal tank inspection. The inspection report, dated June 24, 2003, noted many dimples in the sidewalls of the tank, large tubercles in the feed and discharge pipes, and many areas of the tank in the same condition as the area in which the leak had been found. The inspection company opined that the tank was in "fair to poor condition and more leaks are inevitable."
7. On or about December 3, 2003, Letter of Deficiency #WSEB 03-298 ("December 2003 LOD") was issued to the Water System. The December 2003 LOD noted the leak in the tank that had been documented in the May 28, 2003 sanitary survey report as well as the findings of the internal tank inspection. The December 2003 LOD requested that the Water System take the following actions:
 - a. By April 1, 2004, appropriate the funds necessary for the design and construction of a water storage tank to replace the District's existing tank; and
 - b. By October 1, 2005, complete construction of a DES-approved replacement water storage tank.
8. The December 2003 LOD was received by the Water System as evidenced by a signed postal receipt.
9. On or about December 5, 2003, DES staff sent a letter to the Water System that reviewed the condition of the water storage tank, discussed various funding mechanisms to finance replacement of the tank, identified DES staff willing to assist the Water System in completing an income survey to establish the District's financial eligibility for a grant, and concluded by emphasizing "the emergency nature of the tank replacement project given the questionable service life of the existing tank."
10. DES staff learned that the District did not place a warrant article concerning the storage tank before the District's voters at the March 2004 annual meeting. In addition, the District delayed undertaking an income survey, which caused the District to miss the January 2004 deadline for the current round of Community Development Block Grants. As a result, the Water

System did not comply with the request contained in the December 2003 LOD to appropriate the funds necessary to design and construct a replacement water storage tank by the April 1, 2004 deadline.

D. DETERMINATION OF VIOLATIONS

1. The Water System has violated Env-Ws 360.10 by failing to maintain the operational readiness of the system as evidenced by the failure to take action to replace the deteriorating water storage tank.
2. As owner of the Water System, the Milton Water District is responsible for the violations noted herein.

E. ORDER

Based on the above findings, DES hereby orders the Milton Water District as follows:

1. **By April 1, 2005**, appropriate the funds necessary for the design and construction of a water storage tank to replace the Water System's existing tank.
2. **By June 1, 2005**, submit a schedule for construction of a DES-approved replacement water storage tank.
3. Complete construction of the DES-approved water storage tank in accordance with the DES-approved schedule.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Alan Leach
Water Supply Engineering Bureau
Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
Telephone: (603) 271-2854
Fax: (603) 271-5171
e-mail: aleach@des.state.nh.us


F. APPEAL


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this

Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Milton Water District of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485:58 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Milton Water District remains obligated to comply with all applicable drinking water statutes and rules. DES will continue to monitor the Milton Water District's compliance with applicable requirements and will take appropriate action if additional violations are discovered.


Harry L. Stewart, P.E. Director
Water Division


Michael P. Nolin
Commissioner

Certified Mail/RRR: #7000 0600 0023 9933 7784

cc: Gretchen Hamel, DES Legal Unit Administrator
Public Information Officer, DES PIC Office
DES Water Division Director's Office
Jennifer Patterson, Sr. Assistant Attorney General
Town of Milton Board of Selectmen
Town of Milton Health Officer
US EPA, Region 1